

REMARKS

Applicants thank the Examiner for the very thorough consideration given the present application.

Claims 1-5 and 7-20 are now present in this application. Claims 1 and 12 are independent.

By this amendment, claims 1, 5, 7, 9 and 10 are amended, claim 6 is canceled, and claims 12-20 are added. No new matter is involved. Support for the new claims is found throughout Applicants' originally filed disclosure, including the main body of the specification, the claims portion of the specification, and the drawings.

Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Claim Objections

The Examiner has objected to claims 5 and 7 because of an obvious mis-spelling of the word "lid." Applicants have amended claims 5 and 7 in accordance with the Examiner's suggestion and changed "lead frame" to - - lid frame - - in order to correct the mis-spellings

pointed out by the Examiner. Reconsideration and withdrawal of this objection are respectfully requested.

Rejection Under 35 U.S.C. § 112, 2nd Paragraph

Claims 5 and 7 stand rejected under 35 U.S.C. § 112, 2nd Paragraph. This rejection is respectfully traversed.

The Examiner has set forth certain instances wherein the claim language lacks antecedent basis.

In order to overcome this rejection, Applicants have amended claims 5 and 7 to correct each of the deficiencies specifically pointed out by the Examiner. Applicants respectfully submit that the claims, as amended, particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 1-9 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,327,729 to Wunderlich et al. ("Wunderlich"). This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

A prior art reference anticipates the subject matter of a claim when that reference discloses

every feature of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997) and Hazani v. Int'l Trade Comm'n, 126 F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed Cir. 1997). While, of course, it is possible that it is inherent in the operation of the prior art device that a particular element operates as theorized by the Examiner, inherency may not be established by probabilities or possibilities. What is inherent, must necessarily be disclosed. In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) and In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

A claim limitation is inherent in the prior art if it is necessarily present in the prior art, not merely probably or possibly present. Rosco v. Mirro Lite, 304 F.3d 1373, 1380, 64 USPQ2d 1676 (Fed. Cir. 2002). The dispositive question regarding anticipation is whether one skilled in the art would reasonably understand or infer from the prior reference's teaching that every claim feature or limitation was disclosed in that single reference, Dayco Products, Inc. v. Total Containment, Inc., 329 F.3d 1358, 1368, 66 USPQ2d 1801 (Fed. Cir. 2003).

During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984).

If the PTO fails to meet this burden, then the applicant is entitled to the patent. However, when a *prima facie* case is made, the burden shifts to the applicant to come forward with evidence and/or argument supporting patentability. Patentability *vel non* is then determined on the entirety of the record, by a preponderance of evidence and weight of argument, *Id.*

Moreover, as stated in MPEP §707.07(d), where a claim is refused for any reason relating

to the merits thereof it should be "rejected" and the ground of rejection fully and clearly stated.

Additionally, findings of fact and conclusions of law by the USPTO must be made in accordance with the Administrative Procedure Act, 5 U.S.C. §706(A), (E) (1994). Zurko v. Dickinson, 527 U.S. 150, 158, 119 S.Ct. 1816, 1821, 50 USPQ2d 1930, 1934 (1999).

Furthermore, a factual inquiry whether there is proper motivation to modify a reference must be based on objective evidence of record, not merely conclusory statements of the Examiner. See In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

Claim 1 has been amended to include the subject matter of claim 6, which has been canceled.

Wunderlich fails to disclose the positively recited features of claims 1-5, 7-9 and 11, including (1) a detergent storing assembly loaded on a loading hole formed at one side of the cabinet, (2), packing means sealing a gap between the detergent storing assembly and the cabinet to prevent external water from flowing in the cabinet, and (3) a lid frame comprising an insertion groove to which the packing means is fitted.

Wunderlich's detergent chamber is located inside of its lid and, because it is not located in the separately recited (from the lid) cabinet, it cannot be loaded on a loading hole formed at one side of the cabinet. In actuality, Wunderlich's detergent storing assembly is loaded on its lid, which is not a loading hole formed at one side of the cabinet. Nor does Wunderlich include a packing means sealing a gap between the detergent storage assembly and the cabinet because Wunderlich's gasket seal 74 seals the gap between lid 70 and washer cabinet opening 66, which is not the gap between the detergent storage assembly and the cabinet. Nor does Wunderlich disclose a lid frame

comprising an insertion groove to which the packing means is fitted. Applicants have reviewed Wunderlich's specification and drawings and are unable to find any such insertion groove in Wunderlich. In this regard, the Office Action merely speculates that "the horizontal parts of sealing gasket 74 read on applicant's claim for a first gasket inserted in a front portion of the insertion groove of the lid frame." Unfortunately, the Office Action never discloses where this insertion groove of the lid frame is disclosed nor does it explain where Wunderlich discloses that its gasket seal 74 fits in this lid frame insertion groove, the location and details of which are not identified in the Office Action. The Office Action states that the left and right sides 96, 98 of Wunderlich's gasket 74 traverse along a thin, long grooved portion of front wall 76 but never explain whether this groove, which Applicants are unable to clearly locate in Wunderlich, constitutes the claimed insertion groove. Moreover, Applicants respectfully submit that for something to be inherently disclosed, it must not just possibly be disclosed, or probably disclosed, but must be necessarily disclosed. Applicants respectfully submit that Wunderlich does not explicitly or inherently (i.e., necessarily) disclose the recited insertion groove in which a packing is fitted.

Accordingly, Wunderlich does not anticipate claims 1-5, 7-9 and 11.

Further, with respect to claim 3, Wunderlich does not disclose (1) a lid frame fixed to the detergent box and having an opening at a center to permit the detergent to be placed in the detergent box, or (2) a revolvable lid installed at one side of the lid frame to open/close the topside of the detergent box, as recited. Instead, Wunderlich's detergent dispenser is located completely on the underside of lid 70.

Further, with respect to claim 9, Wunderlich fails to disclose a first gasket and a second

gasket, as recited. The statement that one part of a single gasket constitutes a first gasket and a second part of that same gasket constitutes a separately recited second gasket is improper where, as in claim 9, the first gasket is separately recited from the second gasket and the gaskets are recited as first and second gaskets.

Rejections under 35 USC §103

Claim 10 stands rejected under 35 USC §103(a) as unpatentable over Wunderlich in view of U.S. Patent 5,709,390 to Faccoli. This rejection is respectfully traversed.

Because the rejection is based on 35 U.S.C. §103, what is in issue in such a rejection is "the invention as a whole", not just a few features of the claimed invention. Under 35 U.S.C. §103, "[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The determination under section 103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. See In re O'Farrell, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988). In determining obviousness, the Examiner must explain what the differences between the claimed invention and the prior art are and provide objective factual evidence to support a conclusion that it would be obvious to one of ordinary skill in the art to achieve the claimed invention, which includes those missing features.

In the second place, in rejecting claims under 35 U.S.C. §103, it is incumbent on the

Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

A showing of a suggestion, teaching, or motivation to combine the prior art references is an “essential evidentiary component of an obviousness holding.” C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not “evidence.” See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999).

Moreover, a factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusory statements of the Examiner. See In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

Claim 10 depends from amended claim 1, and Wunderlich fails to anticipate claim 1 for reasons disclosed above. Moreover, Faccoli is not applied to remedy all of the deficiencies of Wunderlich with respect to claim 1. So, even if, for the sake of argument, one of ordinary skill in the art were properly motivated to modify Wunderlich, as suggested, the resulting modified version of Wunderlich would not meet, or otherwise render obvious, the claimed invention.

Moreover, claim 10 recites a combination of features including plurality of inclined protrusions located on an inside of the insertion groove for slidably receiving the packing means thereon. Wunderlich does not disclose a sliding fit. In fact, Wunderlich actually bends fingers 21 around a rib portion of the gasket.

Furthermore, the Office Action fails to provide objective factual evidence that one of ordinary skill in the art would be properly motivated to turn to Faccoli to modify Wunderlich, as suggested, because Faccoli is directed to a gasket with a specific size and shape which has not been

shown to be useful in Wunderlich in general, or to provide a water seal.

Claims 12-20

Applicants respectfully submit that new claims 12-20 patentably define over the applied art for a number of reasons.

Wunderlich fails to disclose a number of positively recited features of claims 12-20, including (1) a cabinet having a side with a detergent loading hole extending through the side and the tub installed inside the cabinet wherein the detergent storing assembly is mounted in the loading hole and a gap is formed between the detergent storing assembly and the loading hole of the cabinet, and (2) a packing means sealing the gap between the detergent storing assembly and the cabinet to prevent external water from flowing in the cabinet through the gap.

Wunderlich's detergent chamber is located inside of its lid, and does not contain a loading hole (of any type) extending through any side of the cabinet, as claimed. Instead, Wunderlich's detergent dispenser is located completely inside of cabinet lid 70 so that detergent is loaded inside of the lid when the lid is opened.

Nor is Wunderlich's detergent storing assembly mounted in a non-existent (in Wunderlich) loading hole that extends through the side of the cabinet, as recited.

Nor does Wunderlich disclose a gap between its non-existent loading hole that extends through a side of the cabinet and its detergent storing assembly (which is located completely on the underside of its lid 70).

Nor does Wunderlich disclose packing means sealing a non-existent gap between the detergent storing assembly located in an opening in a side wall of the cabinet, and the cabinet to

between the lid used to open and close the laundry loading and closing opening in Wunderlich, and discloses no concept of the gap recited in claims 12-20.

Further, with respect to claim 14, Wunderlich does not disclose (1) a lid frame fixed to the detergent box and having an opening at a center to permit the detergent to be placed in the detergent box, or (2) a revolvable lid installed at one side of the lid frame to open/close the topside of the detergent box, as recited. Instead, Wunderlich's detergent dispenser is located completely on the underside of lid 70.

Further, with respect to claim 17, Wunderlich does not explicitly or inherently disclose a lid frame having an insertion groove to which the packing means is fitted. The Office Action states that the left and right sides 96, 98 of Wunderlich's gasket 74 traverse along a thin, long grooved portion of front wall 76 but never explain whether this groove, which Applicants are unable to clearly locate in Wunderlich, constitutes the claimed insertion groove and Applicants respectfully submit that for something to be inherently disclosed, it must not just possibly be disclosed, or probably disclosed, but must be necessarily disclosed. Applicants respectfully submit that Wunderlich does not explicitly or inherently (i.e., necessarily) disclose the recited insertion groove in which a packing is fitted.

Further, with respect to claim 19, Wunderlich fails to disclose a first gasket and a second gasket, as recited. The statement that one part of a single gasket constitutes a first gasket and a second part of that same gasket constitutes a separately recited second gasket is improper where, as in claim 9, the first gasket is separately recited from the second gasket and the gaskets are recited as first and second gaskets.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

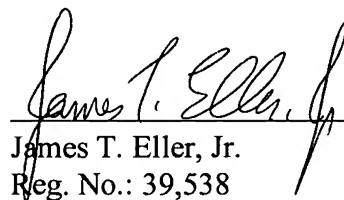
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 42,476, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 
James T. Eller, Jr.
Reg. No.: 39,538

JTE/RJW:mmi

P.O. Box 747
Falls Church, Virginia 22040-0747
Telephone: (703)205-8000